

# THE LAWS RELATING TO THE TIME, MANNER AND PAYMENT OF WAGES



State of California  
Department of Industrial Relations (DIR)  
Division of Labor Standards Enforcement (DLSE)  
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For a complete listing of the DLSE offices in California, please check the list located in the back of this booklet.

For more detailed information and a complete listing of the California Labor Codes visit the Division of Labor Standards Enforcement (DLSE) web site at [www.dir.ca.gov/dlse](http://www.dir.ca.gov/dlse) and click on *California Labor Code*

## **INTRODUCTION**

The California Labor Code promotes and develops the welfare of the wage earners of California, to improve their working conditions and to advance their opportunities for profitable employment. This booklet focuses on the California Labor Code sections relating to the time, manner, and payment of wages, and is an informative guide of the important laws that affect the employee and employer. For the complete California Labor Code visit the website for the Division of Labor Standards Enforcement (DLSE) at [www.dir.ca.gov/dlse](http://www.dir.ca.gov/dlse). In addition, the California Code of Regulations, and in particular, DLSE regulations (Title 8, Division 1, Chapter 6, Sections 11707 through 13577) governing the DLSE's enforcement of the Labor Code, can be accessed through the DLSE website at <http://www.dir.ca.gov/dlse/CCR.htm>

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## SOURCES OF INFORMATION AND FREQUENTLY ASKED QUESTIONS

The DLSE has recently released pre-recorded informational phone lines that cover a broad range of topics. The pre-recorded messages are provided in their entirety in English and Spanish, with introductory statements in Mandarin, Cantonese, Tagalog, Vietnamese and Korean. At the back of the booklet, and on our website, you will find phone numbers for the pre-recorded information lines for each DLSE district office as well as general phone numbers and addresses for each District Office. If you are unsure of which office services your city of residence, go to our website at [www.dir.ca.gov/dlse](http://www.dir.ca.gov/dlse) and click on the link for Office Locations. At the top of the Office Locations page you will find an office locator link that provides a link to an alphabetical listing of cities in California that matches the city to its corresponding DLSE District Office.

Many of the public forms on the website, as well as internal forms used by our staff to communicate with the public, are available in Spanish, Chinese, Tagalog, Vietnamese and Korean in addition to English.

Other sources of information found on our website include:

Information sheets and publications: <http://www.dir.ca.gov/dlse/DLSE-Publications.htm>

IWC Orders: <http://www.dir.ca.gov/Iwc/WageOrderIndustries.htm>

Opinion letters: [http://www.dir.ca.gov/dlse/DLSE\\_OpinionLetters.htm](http://www.dir.ca.gov/dlse/DLSE_OpinionLetters.htm)

Workplace postings: <http://www.dir.ca.gov/wp.asp>

DLSE Policies and Enforcement Manual: <http://www.dir.ca.gov/dlse/Manual-Instructions.htm>

New legislation: <http://www.dir.ca.gov/dlse/Regulations.htm>

Forms: <http://www.dir.ca.gov/dlse/DLSE-Forms.htm>

Publications: <http://www.dir.ca.gov/dlse/DLSE-Publications.htm>

Training opportunities: <http://www.dir.ca.gov/dlse/EDDTrainingFlyer.pdf>

How to File a:

Wage claim: <http://www.dir.ca.gov/dlse/HowToFileWageClaim.htm>

Retaliation claim: <http://www.dir.ca.gov/dlse/HowToFileDiscriminationComplaint.htm>

Public works claim: <http://www.dir.ca.gov/dlse/HowToFilePWComplaint.htm>

Bureau of Field Enforcement claim: <http://www.dir.ca.gov/dlse/HowToFileBOFEClaim.htm>

How to get data: <http://www.dir.ca.gov/dlse/DLSE-Databases.htm>

The following is a list of commonly asked questions regarding the time, manner, and payment of wages. For information on additional topics please refer to the website of the Division of Labor Standards Enforcement (DLSE) at <http://www.dir.ca.gov/dlse/DLSE-FAQs.htm> .

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## **2006 CALIFORNIA LABOR CODE**

### **LAWS RELATING TO THE TIME, MANNER AND PAYMENT OF WAGES**

#### **§ 200. Definitions**

As used in this article:

(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

(b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

#### **§ 201. Discharge of employee; Immediate payment; Seasonal employment**

(a) If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. An employer who lays off a group of employees by reason of the termination of seasonal employment in the curing, canning, or drying of any variety of perishable fruit, fish or vegetables, shall be deemed to have made immediate payment when the wages of said employees are paid within such reasonable time as may be necessary for computation and payment thereof; provided, however, that such reasonable time shall not exceed 72 hours, and further provided that payment shall be made by mail to any such employee who so requests and designates a mailing address thereof.

#### **§ 201.5. Payment of wages for employees laid off or discharged from production of motion pictures Definitions; Method of Payment (Repealed and replaced effective 1/1/07)**

(a) For purposes of this section, the following definitions apply:

(1) "An employee engaged in the production or broadcasting of motion pictures" means an employee to whom both of the following apply:

(A) The employee's job duties relate to or support the production or broadcasting of motion pictures or the facilities or equipment used in the production or broadcasting of motion pictures.

(B) The employee is hired for a period of limited duration to render services relating to or supporting a particular motion picture production or broadcasting project, or is hired on the basis of one or more daily or weekly calls.

(2) "Daily or weekly call" means an employment that, by its terms, will expire at the conclusion of one day or one week, unless renewed.

(3) "Next regular payday" means the day designated by the employer, pursuant to Section 204, for payment of wages earned during the payroll period in which the termination occurs.

(4) "Production or broadcasting of motion pictures" means the development, creation, presentation, or broadcasting of theatrical or televised motion pictures, television programs, commercial advertisements, music videos, or any other moving images, including, but not limited to, productions made for entertainment, commercial, religious, or educational purposes, whether these productions are presented by means of film, tape, live broadcast, cable, satellite transmission, Web cast, or any other technology that is now in use or may be adopted in the future.

(b) An employee engaged in the production or broadcasting of motion pictures whose employment terminates is entitled to receive payment of the wages earned and unpaid at the time of the termination by the next regular payday.

(c) The payment of wages to employees covered by this section may be mailed to the employee or made available to the employee at a location specified by the employer in the county where the employee was hired or performed labor. The payment shall be deemed to have been made on the date that the employee's wages are mailed to the employee or made available to the employee at the location specified by the employer, whichever is earlier.

(d) For purposes of this section, an employment terminates when the employment relationship ends, whether by discharge, lay off, resignation, completion of employment for a specified term, or otherwise.

(e) Nothing in this section prohibits the parties to a valid collective bargaining agreement from establishing alternative provisions for final payment of wages to employees covered by this section if those provisions do not exceed the time limitation established in Section 204.

#### **§ 201.7. Discharge; Oil drilling business; Findings and declarations**

An employer who lays off an employee or a group of employees engaged in the business of oil drilling shall be deemed to have made immediate payment within the meaning of Section 201 if the wages of such employees are paid within such reasonable time as may be necessary for computation or payment thereof; provided, however, that such reasonable time shall not exceed 24 hours after discharge excluding Saturdays, Sundays, and holidays; and provided further, such payment may be mailed and the date of mailing is the date of payment.

The Legislature finds and determines that special provision must be made for the payment of wages on discharge of employees engaged in oil drilling because their employment at various locations is often far removed from the employer's principal administrative offices, which makes the computation and payment of wages on an immediate basis unduly burdensome.

#### **§ 201.9. Discharge; Entertainment industry; Effect of collective bargaining agreement for time limit for payment of wages**

Notwithstanding subdivision (a) of Section 201, if employees are employed at a venue that hosts live theatrical or concert events and are enrolled in and routinely dispatched to employment through a hiring hall or other system of regular short-term employment established in accordance with a bona fide collective bargaining agreement, these employees and their employers may establish by express terms in their collective bargaining agreement the time limits for payment of wages to an employee who is discharged or laid off.

#### **§ 202. Quitting employee; Payment within 72 hours; Notice of intention**

(a) If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

(b) [discusses the requirements of the State of California as the employer]

#### **§ 203. Willful failure to pay discharged or quitting employee; Penalty; 30-day limitation; Avoidance or refusal to receive payment; Time for filing suit for penalties**

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to

him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment.

Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

**§ 203.1. Building and construction industry employers; Payment of wages or fringe benefits with check on which payment refused; Time of presentation; Penalty; Unintentional violation**

If an employer pays an employee in the regular course of employment or in accordance with Section 201, 201.5, 201.7, or 202 any wages or fringe benefits, or both, by check, draft or voucher, which check, draft or voucher is subsequently refused payment because the employer or maker has no account with the bank, institution, or person on which the instrument is drawn, or has insufficient funds in the account upon which the instrument is drawn at the time of its presentation, so long as the same is presented within 30 days of receipt by the employee of the check, draft or voucher, those wages or fringe benefits, or both, shall continue as a penalty from the due date thereof at the same rate until paid or until an action thereof is commenced. However, those wages and fringe benefits shall not continue for more than 30 days and this penalty shall not apply if the employer can establish to the satisfaction of the Labor Commissioner or an appropriate court of law that the violation of this section was unintentional. This penalty also shall not apply in any case in which an employee recovers the service charge authorized by Section 1719 of the Civil Code in an action brought by the employee thereunder.

**§ 203.5. Continuance of claim for unpaid wages as penalty under bond**

(a) If a bonding company issuing a bond which secures the payment of wages for labor or the surety on a bond willfully fails to pay, without abatement or reduction, any verified claim made for wages found to be due and payable, the claim for wages shall continue as a penalty against the bonding company or surety from the date on which demand for payment was made at the same rate until paid as the wages upon which the claim is based, except that the claim shall not continue as a penalty for more than 30 days.

(b) This section shall not apply to contractor's bonds required pursuant to Section 7071.6 of the Business and Professions Code.

**§ 204. Semi-monthly payment; Designation of regular paydays; Executive, administrative, and professional employees; Compliance if excess hours itemized as corrections on paystub of next regular payday; Arrangements under collective bargaining agreements (Amended effective 1/1/07)**

(a) All wages, other than those mentioned in Section 201, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16<sup>th</sup> and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. However, salaries of executive, administrative, and professional employees of employers covered by the Fair Labor Standards Act, as set forth pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as amended through March 1, 1969, in Part 541 of Title 29 of the Code of Federal Regulations, as that part now reads or may be amended to read at any time hereafter, may be paid once a month on or before the 26th day of the month during which the labor was performed if the entire month's salaries, including the unearned portion between the date of payment and the last day of the month, are paid at that time.

(b) (1) Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

(2) An employer is in compliance with the requirements of subdivision (a) of Section 226 relating to total hours worked by the employee, if hours worked in excess of the normal work period during



the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

#### **§ 204a. Employees working for several employers interchangeably; Payment at central place and under unified pay schedule; Notice of intent to set up or abandon plan**

When workers are engaged in an employment that normally involves working for several employers in the same industry interchangeably, and the several employers, or some of them, cooperate to establish a plan for the payment of wages at a central place or places and in accordance with a unified schedule of pay days, all the provisions of this chapter except 201, 202, and 208 shall apply. All such workers, including those who have been discharged and those who quit, shall receive their wages at such central place or places.

This section shall not apply to any such plan until 10 days after notice of their intention to set up such a plan shall have been given to the Labor Commissioner by the employers who cooperate to establish the plan. Having once been established, no such plan can be abandoned except after notice of their intention to abandon such plan has been given to the Labor Commissioner by the employers intending to abandon the plan.

#### **§ 204b. Applicability of § 204 to employees paid on weekly basis on regular day; Requirements of payments**

Labor performed by a weekly-paid employee during any calendar week and prior to or on the regular payday shall be paid for not later than the regular payday of the employer for such weekly-paid employee falling during the following calendar week.

Labor performed by a weekly-paid employee during any calendar week and subsequent to the regular payday shall be paid for not later than seven days after the regular payday of the employer for such weekly-paid employee falling during the following calendar week.

#### **§ 204c. Applicability of § 204 to certain executive, administrative, or professional employees.**

Section 204 shall be inapplicable to executive, administrative or professional employees who are not covered by any collective bargaining agreement, who are not subject to the Fair Labor Standards Act, whose monthly remuneration does not include overtime pay, and who are paid within seven days of the close of their monthly payroll period.

#### **§ 204.1. Commissions paid to employee of vehicle dealer; Time for payment; Effect of collective bargaining agreement**

Commission wages paid to any person employed by an employer licensed as a vehicle dealer by the Department of Motor Vehicles are due and payable once during each calendar month on a day designated in advance by the employer as the regular payday. Commission wages are compensation paid to any person for services rendered in the sale of such employer's property or services and based proportionately upon the amount or value thereof.

The provisions of this section shall not apply if there exists a collective bargaining agreement between the employer and his employees which provides for the date on which wages shall be paid.

## **§ 204.2. Monthly payment; Executive, administrative, and professional employees; Effect of collective bargaining agreement**

Salaries of executive, administrative, and professional employees of employers covered by the Fair Labor Standards Act, as set forth pursuant to Section 13 (a)(1) of the Fair Labor Standards Act of 1938, as amended through March 1, 1969, (Title 29, Section 213 (a)(1), United States Code) in Part 541 of Title 29 of the Code of Federal Regulations, as that part now reads, earned for labor performed in excess of 40 hours in a calendar week are due and payable on or before the 26th day of the calendar month immediately following the month in which such labor was performed. However, when such employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements will apply to the covered employees.

## **§ 205. Farm workers and domestic help boarded and lodged by employer; Payment periods**

In agricultural, viticultural, and horticultural pursuits, in stock or poultry raising, and in household domestic service, when the employees in such employments are boarded and lodged by the employer, the wages due any employee remaining in such employment shall become due and payable once in each calendar month on a day designated in advance by the employer as the regular payday. No two successive paydays shall be more than 31 days apart, and the payment shall include all wages up to the regular payday. Notwithstanding the provisions of this section, wages of workers employed by a farm labor contractor shall be paid on payroll periods at least once every week on a business day designated in advance by the farm labor contractor. Payment on such payday shall include all wages earned up to and including the fourth day before such payday.

### **§ 205.5. Payment of wages earned by agricultural employee; Payment periods**

All wages, other than those mentioned in Sections 201 and 202, earned by any agricultural employee, as defined in Section 1140.4, are due and payable twice during each calendar month, on days designated in advance by the agricultural employer as the regular paydays. Labor performed between the 1st and the 15th days, inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the month during which the labor was performed. Labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid between the first and the seventh day of the following month. Agricultural employees, as used in this section, shall not include those employees who are covered by Section 205.

## **§ 206. Payment of amount conceded due in case of dispute; Remedies of employee; Time for payment of claim after determination of validity by Commissioner; Penalty**

(a) In case of a dispute over wages, the employer shall pay, without condition and within the time set by this article, all wages, or parts thereof, conceded by him to be due, leaving to the employee all remedies he might otherwise be entitled to as to any balance claimed.

(b) If, after an investigation and hearing, the Labor Commissioner has determined the validity of any employee's claim for wages, the claim is due and payable within 10 days after receipt of notice by the employer that such wages are due. Any employer having the ability to pay who willfully fails to pay such wages within 10 days shall, in addition to any other applicable penalty, pay treble the amount of any damages accruing to the employee as a direct and foreseeable consequence of such failure to pay.

### **§ 206.5. Prohibition against, and invalidity of, release of claim for wages; Violation as misdemeanor**

No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made. Any release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee and the violation of the provisions of this section shall be a misdemeanor.

## **§ 207. Notice of paydays and time and place of payment; Posting**

Every employer shall keep posted conspicuously at the place of work, if practicable or otherwise where it can be seen as employees come or go to their places of work, or at the office or nearest agency for payment kept by the employer, a notice specifying the regular pay days and the time and place of payment, in accordance with this article.

## **§ 208. Place and manner of payment**

Every employee who is discharged shall be paid at the place of discharge, and every employee who quits shall be paid at the office or agency of the employer in the county where the employee has been performing labor. All payments shall be made in the manner provided by law.

## **§ 209. Striking employees; Payment of earned wages; Return of deposit or guaranty**

In the event of any strike, the unpaid wages earned by striking employees shall become due and payable on the next regular payday, and the payment or settlement thereof shall include all amounts due the striking employees without abatement or reduction. The employer shall return to each striking employee any deposit, money, or other guaranty required by him from the employee for the faithful performance of the duties of the employment.

## **§ 210. Penalty for failure to pay; Recovery; Disposition of money recovered**

In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows:

(a) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.

(b) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties pursuant to this chapter or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and the attorneys thereof may proceed and act for and on behalf of the people in bringing these actions. Twelve and one-half percent of the penalty recovered shall be paid into a fund within the Labor and Workforce Development Agency dedicated to educating employers about state labor laws, and remainder shall be paid into the State Treasury to the credit of the General Fund.

## **§ 212. Instruments issued in payment; Requisites; Sufficiency of funds for payment; Instruments redeemable in merchandise; Protest or dishonor**

(a) No person, or agent or officer thereof, shall issue in payment of wages due, or to become due, or as an advance on wages to be earned:

(1) Any order, check, draft, note, memorandum, or other acknowledgment of indebtedness, unless it is negotiable and payable in cash, on demand, without discount, at some established place of business in the state, the name and address of which must appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be at least 30 days, the maker or drawer has sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment.

(2) Any scrip, coupon, cards, or other thing redeemable, in merchandise or purporting to be payable or redeemable otherwise than in money.

(b) Where an instrument mentioned in subdivision (a) is protested or dishonored, the notice or memorandum of protest or dishonor is admissible as proof of presentation, nonpayment and protest and is presumptive evidence of knowledge of insufficiency of funds or credit with the drawee.

(c) Notwithstanding paragraph (1) of subdivision (a), if the drawee is a bank, the bank's address need not appear on the instrument and, in that case, the instrument shall be negotiable and payable in cash, on demand, without discount, at any place of business of the drawee chosen by the person entitled to enforce the instrument.

### **§ 213. Limitations upon effect and applicability of § 212**

Nothing contained in Section 212 shall:

(a) Prohibit an employer from guaranteeing the payment of bills incurred by an employee for the necessities of life or for the tools and implements used by the employee in the performance of his or her duties.

(b) Apply to counties, municipal corporations, quasi-municipal corporations, or school districts.

(c) Apply to students of nonprofit schools, colleges, universities, and other nonprofit educational institutions.

(d) Prohibit an employer from depositing wages due or to become due or an advance on wages to be earned in an account in any bank, savings and loan association, or credit union of the employee's choice with a place of business located in this state, provided that the employee has voluntarily authorized that deposit. If an employer discharges an employee or the employee quits, the employer may pay the wages earned and unpaid at the time the employee is discharged or quits by making a deposit authorized pursuant to this subdivision, provided that the employer complies with the provisions of this article relating to the payment of wages upon termination or quitting of employment.

### **§ 214. Place of prosecution under § 212**

Prosecution under Section 212 may be brought either at the place where the alleged illegal order, check, draft, note, memorandum or other acknowledgment of wage indebtedness is issued or at the place where it is made payable.

### **§ 215. Misdemeanors; Violation of sections governing time, place and manner of payment of wages; Prima facie evidence**

Any person, or the agent, manager, superintendent or officer thereof, who violates any provision of Sections 204, 204b, 205, 207, 208, 209, or 212 is guilty of a misdemeanor. Any failure to keep posted any notice required by Section 207 is prima facie evidence of a violation of such sections.

### **§ 216. Acts constituting misdemeanor; Refusal to pay wages; False denial of amount or validity of wages**

In addition to any other penalty imposed by this article, any person, or an agent, manager, superintendent, or officer thereof is guilty of a misdemeanor, who:

(a) Having the ability to pay, willfully refuses to pay wages due and payable after demand has been made.

(b) Falsely denies the amount or validity thereof, or that the same is due, with intent to secure for himself, his employer or other person, any discount upon such indebtedness, or with intent to annoy, harass, oppress, hinder, delay or defraud, the person to whom such indebtedness is due.

### **§ 217. Inquiries for violation of articles; Institution of actions for penalties; Enforcement of Article.**

The Division of Labor Law Enforcement shall inquire diligently for any violations of this article, and, in cases which it deems proper, shall institute the actions for the penalties provided for in this article and shall enforce this article.

## **§ 218. Authority of district or prosecuting attorney not limited; Suit by wage claimant**

Nothing in this article shall limit the authority of the district attorney of any county or prosecuting attorney of any city to prosecute actions, either civil or criminal, for violations of this article or to enforce the provisions thereof independently and without specific direction of the division. Nothing in this article shall limit the right of any wage claimant to sue directly or through an assignee for any wages or penalty due him under this article.

### **§ 218.5. Attorney's fees and costs**

In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action. This section shall not apply to an action brought by the Labor Commissioner. This section shall not apply to a surety issuing a bond pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code or to an action to enforce a mechanics lien brought under Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code.

This section does not apply to any action for which attorney's fees are recoverable under Section 1194.

### **§ 218.6. Award of Interest**

In any action brought for the nonpayment of wages, the court shall award interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2.

## **§ 219. More frequent or greater payment not prohibited; Article not to be contravened by agreement**

Nothing in this article shall in any way limit or prohibit the payment of wages at more frequent intervals, or in greater amounts, or in full when or before due, but no provision of this article can in any way be contravened or set aside by a private agreement, whether written, oral, or implied.

### **§ 220. Sections inapplicable to public employees**

(a) Sections 201.5, 201.7, 203.1, 203.5, 204, 204a, 204b, 204c, 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments are subject to these provisions.

### **§ 221. Collection or receipt of wages previously paid**

It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.

### **§ 222. Withholding part of wages established by collective bargaining**

It shall be unlawful, in case of any wage agreement arrived at through collective bargaining, either willfully or unlawfully or with intent to defraud an employee, a competitor, or any other person, to withhold from said employee any part of the wage agreed upon.

### **§ 222.5. Withholding fee for medical or physical examinations**

No person shall withhold or deduct from the compensation of any employee, or require any prospective employee or applicant for employment to pay, any fee for, or cost of, any pre-employment medical or physical examination taken as a condition of employment, nor shall any person withhold or deduct from the

compensation of any employee, or require any employee to pay any fee for, or costs of, medical or physical examinations required by any law or regulation of federal, state or local governments or agencies thereof.

**§ 223. Secret payment of wage lower than designated scale**

Where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.

**§ 224. Withholding or diverting portion of wages under law or written authorization**

The provisions of Sections 221, 222 and 223 shall in no way make it unlawful for an employer to withhold or divert any portion of an employee's wages when the employer is required or empowered so to do by state or federal law or when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, or when a deduction to cover health and welfare or pension plan contributions is expressly authorized by a collective bargaining or wage agreement.

Nothing in this section or any other provision of law shall be construed as authorizing an employer to withhold or divert any portion of an employee's wages to pay any tax, fee or charge prohibited by Section 50026 of the Government Code, whether or not the employee authorizes such withholding or diversion.

**§ 225. Unlawful receipt or withholding of wages; Secret payment of wage below scale**

The violation of any provision of Sections 221, 222, 222.5, or 223 is a misdemeanor.

**§ 225.5. Penalty for failure to pay; Recovery; Disposition of money**

In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty as follows:

(a) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.

(b) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and attorneys thereof may proceed and act for and on behalf of the people in bringing the action. Twelve and one-half percent of the penalty recovered shall be paid into a fund within the Labor and Workforce Development Agency dedicated to educating employers about state labor laws, and the remainder shall be paid into the State Treasury to the credit of the General Fund.

**§ 226. Itemized statement to employees; Contents; Damages; Exemptions**

(a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6)

the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security

number or an employee identification number other than a social security number may be shown on the itemized

statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer. The employer may take reasonable steps to assure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.

(g) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(h) This section does not apply to the state, to any city, county, city and county, district, or to any other governmental entity, except that if the state or a city, county, city and county, district, or other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, the state or a city, county, city and county, district, or other governmental entity shall, by January 1, 2008, use no more than the last four digits of the employee's social security number or shall use an employee identification number other than the social security number on the itemized statement provided with the check, draft, or voucher.

### **§ 226.3. Employer subject to civil penalty**

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law. In enforcing this section, the Labor Commissioner shall take into consideration whether the violation was

inadvertent, and in his or her discretion, may decide not to penalize an employer for a first violation when that violation was due to a clerical error or inadvertent mistake.

#### **§ 226.4. Issuance of citation to employer**

If, upon inspection or investigation, the Labor Commissioner determines that an employer is in violation of subdivision (a) of Section 226, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated.

#### **§ 226.5. Procedures for contesting citation or proposed assessment of civil penalty; Hearing; Procedures in lieu of contesting citation; Entry of judgment against person assessed**

(a) If a person desires to contest a citation or the proposed assessment of a civil penalty therefore, he or she shall within 15 business days after service of the citation notify the office of the Labor Commissioner which appears on the citation of his or her request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed. The decision of the Labor Commissioner shall consist of a notice of findings, findings, and order which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court, as long as the party agrees to pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken within 45 days of service of the notice of findings, findings, and order thereon.

(b) A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this Section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(c) When no petition objecting to a citation or the proposed assessment of a civil penalty is filed, certified copy of the citation or proposed civil penalty may be filed by the Labor Commissioner in the office of the clerk or the superior court in any county in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty.

(d) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty after hearing, a certified copy of these findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by the law on other judgments and be rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him or her.

#### **§ 226.6. Additional punishment for violation of sections governing itemized wage statement**

Any employer who knowingly and intentionally violates the provisions of Section 226 or 226.2, or any officer, agent, employee, fiduciary, or other person who has the control, receipt, custody, or disposal of, or pays,



the wages due any employee, and who knowingly and intentionally participates or aids in the violation of any provision of Section 226 or 226.2 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not to exceed one year, or both, at the discretion of the court. That fine or imprisonment, or both, shall be in addition to any other penalty provided by law.

#### **§226.7. Meal or rest period**

(a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.

(b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

#### **§227. Employer's failure to make agreed payments to fund or plan for employee's benefit; Punishment**

Whenever an employer has agreed with any employee to make payments to a health or welfare fund, pension fund or vacation plan, or other such plan for the benefit of the employees, or a negotiated industrial promotion fund, or has entered into a collective bargaining agreement providing for such payments, it shall be unlawful for such an employer willfully or with intent to defraud to fail to make the payments required by the terms of any such agreement. A violation of any provision of this section where the amount the employer failed to pay into the fund or funds exceeds five hundred dollars (\$500) shall be punishable by imprisonment in the state prison for a period of not more than five years or in the county jail for a period of not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine. All other violations shall be punishable as a misdemeanor.

#### **§ 227.3. Payment for vested vacation time on termination of employment**

Unless otherwise provided by a collective-bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination. The Labor Commissioner or a designated representative, in the resolution of any dispute with regard to vested vacation time, shall apply the principles of equity and fairness.

#### **§ 227.5. Annual statement concerning payments to fund or plan for employee's benefit**

Whenever an employer has agreed with any employee to make payments to a health or welfare fund, pension fund or vacation plan, or such other plan for the benefit of the employee, or has entered into a collective bargaining agreement providing for such payments, the employer upon written request of the employee shall furnish such employee annually a statement indicating whether or not such payments have been made and for what periods.

#### **§ 228. Payments under 227 as including payment to apprenticeship funds**

The payments under Section 227 of this code shall be deemed to include payments to apprenticeship funds. This amendment is hereby declared to be merely a clarification of the original intention of the Legislature and is not a substantive change.

#### **§ 229. Maintenance of actions despite private agreement to arbitrate; Application of section**

Actions to enforce the provisions of this article for the collection of due and unpaid wages claimed by an individual may be maintained without regard to the existence of any private agreement to arbitrate. This section shall not apply to claims involving any dispute concerning the interpretation or application of any collective bargaining agreement containing such an arbitration agreement.

### **§ 231. Employer's payment of costs of physical examination for driver's license**

Any employer who requires, as a condition of employment, that an employee have a driver's license shall pay the cost of any physical examination of the employee which may be required for issuance of such license, except where the physical examination was taken prior to the time the employee applied for such employment with the employer.

### **§ 232. Prohibition against requiring employee to refrain from disclosing amount of wages**

No employer shall do any of the following:

(a) Require, as a condition of employment, that any employee refrain from disclosing the amount of his or her wages.

(b) Require any employee to sign a waiver or other document which purports to deny the employee the right to disclose the amount of his or her wages.

(c) Discharge, formally discipline, or otherwise discriminate against, for job advancement, an employee who discloses the amount of his or her wages.

### **§ 232.5 Prohibition against requiring employee to refrain from disclosing working conditions**

No employer may do any of the following:

(a) Require, as a condition of employment, that an employee refrain from disclosing information about the employer's working conditions.

(b) Require an employee to sign a waiver or other document that purports to deny the employee the right to disclose information about the employer's working conditions.

(c) Discharge, formally discipline, or otherwise discriminate against an employee who discloses information about the employer's working conditions.

(d) This section is not intended to permit an employee to disclose proprietary information, trade secret information, or information that is otherwise subject to a legal privilege without the consent of his or her employer.

### **§ 233. Sick leave to attend family**

(a) Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, to attend to an illness of a child, parent, spouse or domestic partner of the employee. All conditions and restrictions placed by the employer upon the use by an employee of sick leave also shall apply to the use by an employee of sick leave to attend to an illness of his or her child, parent, spouse or domestic partner. This section does not extend the maximum period of leave to which an employee is entitled under Section 12945.2 of the Government Code or under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2606 et seq.), regardless of whether the employee receives sick leave compensation during that leave.

(b) As used in this section:

(1) "Child" means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner or a child of a person standing in loco parentis.

(2) "Employer" means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(3) "Parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

(4) "Sick leave" means accrued increments of compensated leave provided by an employer to an employee as a benefit of the employment for use by the employee during an absence from the employment for any of the following reasons:

A) The employee is physically or mentally unable to perform his or her duties due to illness, injury, or a medical condition of the employee.

(B) The absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the employee.

(C) The absence is for other medical reasons of the employee, such as pregnancy or obtaining a physical examination.

"Sick leave" does not include any benefit provided under an employee welfare benefit plan subject to the federal Employee Retirement Income Security Act of 1974 (Public Law 93-406, as amended) and does not include any insurance benefit, workers' compensation benefit, unemployment compensation disability benefit, or benefit not payable from the employer's general assets.

(c) No employer shall deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness of a child, parent, spouse or domestic partner of the employee.

(d) Any employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day's pay, whichever is greater, and to appropriate equitable relief.

(e) Upon the filing of a complaint by an employee, the Labor Commissioner shall enforce the provisions of this section in accordance with the provisions of Chapter 4 (commencing with Section 79) of Division 1, including, but not limited to, Sections 92, 96.7, 98, and 98.1 to 98.8, inclusive. Alternatively, an employee may bring a civil action for the remedies provided by this section in a court of competent jurisdiction. If the employee prevails, the court may award reasonable attorney's fees.

(f) The rights and remedies specified in this section are cumulative and nonexclusive and are in addition to any other rights or remedies afforded by contract or under other provisions of law.

#### **§ 234. Per se violation of § 233**

An employer absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

#### **§ 240. Deposit of bond upon nonpayment of wages**

(a) If any employer has been convicted of a violation of any provision of this article, or if any judgment against an employer for nonpayment of wages remains unsatisfied for a period of 10 days after the time to appeal therefrom has expired, and no appeal therefrom is then pending, the Labor Commissioner may require the employer to deposit a bond in such sum as the Labor Commissioner may deem sufficient and adequate in the circumstances, to be approved by the Labor Commissioner. The bond shall be payable to the Labor Commissioner and shall be conditioned that the employer shall, for a definite future period, not exceeding six months, pay the employees in accordance with the provisions of this article, and shall be further conditioned upon the payment by the employer of any judgment which may be recovered against the employer pursuant to the provisions of this article.

(b) If within 10 days after demand for the bond, which demand may be made by mail, the employer fails to deposit the bond, the Labor Commissioner may bring an action in the name and on the behalf of the people of the State of California against the employer in a court of competent jurisdiction to compel the employer to furnish the bond or to cease doing business until the employer has done so. The employer has the burden of proving either that the bond is unnecessary or that the amount demanded is excessive. If the court finds that

there is just cause for requiring the bond, and that the bond is reasonably necessary or proper to secure prompt payment of the wages of the employees of the employer and the employer's compliance with the provisions of this article, the court may enjoin the employer, whether an individual, partnership, corporation, company, trust, or association, and such other person or persons as may have been or may be concerned with or in any way participating in the failure to pay the wages resulting in the conviction or in the judgment, from doing business until the requirement is met, and make other and further orders appropriate to compel compliance with the requirement.

### **§350. Definitions**

As used in this article, unless the context indicates otherwise:

(a) "Employer" means every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether the person is the owner of the business or is operating on a concessionaire or other basis.

(b) "Employee" means every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay, whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation, and whether the service is rendered on a commission, concessionaire, or other basis.

(c) "Employing" includes hiring, or in any way contracting for, the services of an employee.

(d) "Agent" means every person other than the employer having the authority to hire or discharge any employee or supervise, direct, or control the acts of employees.

(e) "Gratuity" includes any tip, gratuity, money, or part thereof that has been paid or given to or left for an employee by a patron of a business over and above the actual amount due the business for services rendered or for goods, food, drink, or articles sold or served to the patron. Any amounts paid directly by a patron to a dancer employed by an employer subject to Industrial Welfare Commission Order No. 5 or 10 shall be deemed a gratuity.

(f) "Business" means any business establishment or enterprise, regardless of where conducted.

### **§351. Collecting, taking, or receiving gratuity by employer; Deduction from or credit against wages; Gratuity as sole property of employee; Application of section**

No employer or agent shall collect, take, or receive any gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any amount from wages due an employee on account of a gratuity, or require an employee to credit the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee from the employer. Every gratuity is hereby declared to be the sole property of the employee or employees to whom it was paid, given, or left for. An employer that permits patrons to pay gratuities by credit card shall pay the employees the full amount of the gratuity that the patron indicated on the credit card slip, without any deductions for any credit card payment processing fees or costs that may be charged to the employer by the credit card company. Payment of gratuities made by patrons using credit cards shall be made to the employees not later than the next regular payday following the date the patron authorized the credit card payment.

### **§ 353. Records**

Every employer shall keep accurate records of all gratuities received by him, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. Such records shall be open to inspection at all reasonable hours by the department.

### **§ 354. Violation as misdemeanor; Punishment**

Any employer who violates any provision of this article is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment for not exceeding 60 days, or both.

#### **§ 401. Cost; Payment by employer**

If a bond or photograph of an employee or applicant is required by any employer, the cost thereof shall be paid by the employer.

#### **§ 402. Cash bond; Demand prohibited; Exceptions**

No employer shall demand, exact, or accept any cash bond from any employee or applicant unless:

- (a) The employee or applicant is entrusted with property of an equivalent value, or
- (b) The employer advances regularly to the employee goods, wares, or merchandise to be delivered or sold by the employee, and for which the employer is reimbursed by the employee at regular periodic intervals, and the employer limits the cash bond to an amount sufficient to cover the value of the goods, wares, or merchandise so advanced during the period prior to the payment therefor.

#### **§ 403. Cash bond; Deposit and withdrawal; Conditions**

If cash is received as a bond, it shall be deposited in a savings account in a bank authorized to do business in this State, and may be withdrawn only upon the joint signatures of the employer and the employee or applicant.

Cash put up as a bond shall be accompanied by an agreement in writing made by the employer and employee or applicant, setting forth the conditions under which the bond is given.

#### **§ 500. Definitions**

For purposes of this chapter, the following terms shall have the following meanings:

- (a) "Workday" and "day" mean any consecutive 24-hour period commencing at the same time each calendar day.
- (b) "Workweek" and "week" mean any seven consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven consecutive 24-hour periods.
- (c) "Alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight hours in a 24-hour period.

#### **§ 510. "Day's work"; Hours**

(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work. The requirements of this section do not apply to the payment of overtime compensation to an employee working pursuant to any of the following:

- (1) An alternative workweek schedule adopted pursuant to Section 511.
  - (2) An alternative workweek schedule adopted pursuant to a collective bargaining agreement pursuant to Section 514.
  - (3) An alternative workweek schedule to which this chapter is inapplicable pursuant to Section 554.
- (b) Time spent commuting to and from the first place at which an employee's presence is required by the employer shall not be considered to be a part of a day's work, when the employee commutes in a vehicle that is

owned, leased, or subsidized by the employer and is used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code.

(c) This section does not affect, change, or limit an employer's liability under the workers' compensation law.

### **§ 511. Alternative workweek**

(a) Upon the proposal of an employer, the employees of an employer may adopt a regularly scheduled alternative workweek that authorizes work by the affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation pursuant to this section. A proposal to adopt an alternative workweek schedule shall be deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of affected employees in a work unit. The regularly scheduled alternative workweek proposed by an employer for adoption by employees may be a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose.

(b) An affected employee working longer than eight hours but not more than 12 hours in a day pursuant to an alternative workweek schedule adopted pursuant to this section shall be paid an overtime rate of compensation of no less than one and one-half times the regular rate of pay of the employee for any work in excess of the regularly scheduled hours established by the alternative workweek agreement and for any work in excess of 40 hours per week. An overtime rate of compensation of no less than double the regular rate of pay of the employee shall be paid for any work in excess of 12 hours per day and for any work in excess of eight hours on those days worked beyond the regularly scheduled workdays established by the alternative workweek agreement. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

(c) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(d) An employer shall make a reasonable effort to find a work schedule not to exceed eight hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative schedule hours established as the result of that election. An employer shall be permitted to provide a work schedule not to exceed eight hour in a workday to accommodate any employee who was hired after the date of the election and who is unable to work the alternative schedule established as the result of that election. An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(e) The results of any election conducted pursuant to this section shall be reported by an employer to the Division of Labor Statistics and Research within 30 days after the results are final.

(f) Any type of alternative workweek schedule that is authorized by this code and that was in effect on January 1, 2000, may be repealed by the affected employees pursuant to this section. Any alternative workweek schedule that was adopted pursuant to Wage Order Numbers 1, 4, 5, 7, or 9 of the Industrial Welfare Commission is null and void, except for an alternative workweek providing for a regular schedule of no more than 10 hours' work in a workday that was adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to wage orders of the Industrial Welfare Commission in effect prior to 1998. This subdivision does not apply to exemptions authorized pursuant to Section 515.

(g) Notwithstanding subdivision (f), an alternative workweek schedule in the health care industry adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to Wage Orders 4 and 5 in effect prior to 1998 that provided for workdays exceeding 10 hours but not exceeding 12 hours in a day without the payment of overtime compensation shall be valid until July 1, 2000. An employer in the health care industry shall make a reasonable effort to accommodate any employee in the health care industry who is unable to work the alternative schedule established as the result of a valid election held in accordance with provisions of Wage Orders 4 or 5 that were in effect prior to 1998.

(h) Notwithstanding subdivision (f), if an employee is voluntarily working an alternative workweek schedule providing for a regular work schedule of not more than 10 hours work in a workday as of July 1, 1999, an employee may continue to work that alternative workweek schedule without the entitlement of the payment of daily overtime compensation for the hours provided in that schedule if the employer approves a written request of the employee to work that schedule.

## **§ 512. Meal Periods**

(a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) Notwithstanding subdivision (a), the Industrial Welfare Commission may adopt a working condition order permitting a meal period to commence after six hours of work if the commission determines that the order is consistent with the health and welfare of the affected employees.

(c) Subdivision (a) does not apply to an employee in the wholesale baking industry who is subject to an Industrial Welfare Commission wage order and who is covered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of five seven-hour days, payment of 1 and 1/2 the regular rate of pay for time worked in excess of seven hours per day, and a rest period of not less than 10 minutes every two hours.

(d) If an employee in the motion picture industry or the broadcasting industry, as those industries are defined in Industrial Welfare Commission Wage Orders 11 and 12, is covered by a valid collective bargaining agreement that provides for meal periods and includes a monetary remedy if the employee does not receive a meal period required by the agreement, then the terms, conditions, and remedies of the agreement pertaining to meal periods apply in lieu of the applicable provisions pertaining to meal periods of subdivision (a) of this section, Section 226.7, and Industrial Welfare Commission Wage Orders 11 and 12.

## **§ 513. Makeup work time**

If an employer approves a written request of an employee to make up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that makeup work time, if performed in the same workweek in which the work time was lost, may not be counted towards computing the total number of hours worked in a day for purposes of overtime requirements specified in Section 510 or 511, except for hours in excess of 11 hours of work in one day or 40 hours in one workweek. An employee shall provide a signed written request for each occasion that the employee makes a request to make up work time pursuant to this section. An employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make up the work hours within the same week pursuant to this section.

## **§ 514. Exempt employees.**

Sections 510 and 511 do not apply to an employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

## **§ 515. Overtime exemption; Additional exemptions.**

(a) The Industrial Welfare Commission may establish exemptions from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, provided that the employee is primarily engaged in the duties that meet the test of the exemption, customarily and regularly exercises discretion and independent judgment in performing those duties, and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. The commission shall conduct a review of the duties that meet the test of the exemption. The commission may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to duties that meet the test of the exemption without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(b) (1) The commission may establish additional exemptions to hours of work requirements under this division where it finds that hours or conditions of labor may be prejudicial to the health or welfare of employees in any occupation, trade, or industry. This paragraph shall become inoperative on January 1, 2005.

(2) Except as otherwise provided in this section and in subdivision (g) of Section 511, nothing in this section requires the commission to alter any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997. Except as otherwise provided in this division, the commission may review, retain, or eliminate any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997.

(c) For the purposes of this section, "full-time employment" means employment in which an employee is employed for 40 hours per week.

(d) For the purpose of computing the overtime rate of compensation required to be paid to a nonexempt full-time salaried employee, the employee's regular hourly rate shall be 1/40th of the employee's weekly salary.

(e) For the purposes of this section, "primarily" means more than one-half of the employee's worktime.

(f) (1) In addition to the requirements of subdivision (a), registered nurses employed to engage in the practice of nursing shall not be exempted from coverage under any part of the orders of the Industrial Welfare Commission, unless they individually meet the criteria for exemptions established for executive or administrative employees.

(2) This subdivision does not apply to any of the following:

(A) A certified nurse midwife who is primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(B) A certified nurse anesthetist who is primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(C) A certified nurse practitioner who is primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(D) Nothing in this paragraph shall exempt the occupations set forth in subparagraphs (A), (B), and (C) from meeting the requirements of subdivision (a).

### **§ 515.5. Exemption for computer software employee; Exceptions.**

(a) Except as provided in subdivision (b), an employee in the computer software field shall be exempt from the requirement that an overtime rate of compensation be paid pursuant to Section 510 if all of the following apply:

(1) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment.

(2) The employee is primarily engaged in duties that consist of one or more of the following:



(A) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

(B) The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

(C) The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(3) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.

(4) The employee's hourly rate of pay is not less than forty-one dollars (\$41.00), or the annualized full-time salary equivalent of that rate, provided that all other requirements of this section are met and that in each workweek the employee receives not less than forty-one dollars (\$41.00) per hour worked. The Division of Labor Statistics and Research shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(b) The exemption provided in subdivision (a) does not apply to an employee if any of the following apply:

(1) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(2) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(3) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(4) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(5) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for onscreen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or CD-ROMs.

(6) The employee is engaged in any of the activities set forth in subdivision (a) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry

#### **§ 515.6. Physician or surgeon employee exemptions**

(a) Section 510 shall not apply to any employee who is a licensed physician or surgeon, who is primarily engaged in duties that require licensure pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and whose hourly rate of pay is equal to or greater than fifty-five dollars (\$55.00). The Division of Labor Statistics and Research shall adjust this threshold rate of pay each October 1, to be effective the following January 1, by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(b) The exemption provided in subdivision (a) shall not apply to an employee employed in a medical internship or resident program or to a physician employee covered by a valid collective bargaining agreement pursuant to Section 514.

**§ 515.8. Individuals employed as teachers at private K-12 schools exemptions (New section effective 1/1/07)**

(a) Section 510 does not apply to an individual employed as a teacher at a private elementary or secondary academic institution in which pupils are enrolled in kindergarten or any of grades 1 to 12, inclusive.

(b) For purposes of this section, "employed as a teacher" means that the employee meets all of the following requirements:

(1) The employee is primarily engaged in the duty of imparting knowledge to pupils by teaching, instructing, or lecturing.

(2) The employee customarily and regularly exercises discretion and independent judgment in performing the duties of a teacher.

(3) The employee earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment.

(4) The employee has attained at least one of the following levels of professional advancement:

(A) A baccalaureate or higher degree from an accredited institution of higher education.

(B) Current compliance with the requirements established by the California Commission on Teacher Credentialing, or the equivalent certification authority in another state, for obtaining a preliminary or alternative teaching credential.

(c) This section does not apply to any tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or other similar employee.

(d) The exemption established in subdivision (a) is in addition to, and does not limit or supersede, any exemption from overtime established by a Wage Order of the Industrial Welfare Commission for persons employed in a professional capacity, and does not affect any exemption from overtime established by that commission pursuant to subdivision (a) of Section 515 for persons employed in an executive or administrative capacity.

**§ 516. Working condition orders.**

Except as provided in Section 512, the Industrial Welfare Commission may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

**§ 550. "Day's rest"**

As used in this chapter "day's rest" applies to all situations whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time.

**§ 551. Right to day of rest**

Every person employed in any occupation of labor is entitled to one day's rest therefrom in seven.

**§ 552. Number of days in work week**

No employer of labor shall cause his employees to work more than six days in seven.

### **§ 1030. Break time for expressing milk for infant child**

Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission shall be unpaid.

### **§ 1031. Private location for expressing milk**

The employer shall make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room or location may include the place where the employee normally works if it otherwise meets the requirements of this section.

### **§ 1032. Break time not required**

An employer is not required to provide break time under this chapter [Part 2, Chapter 3.8] if to do so would seriously disrupt the operations of the employer.

### **§ 1033. Violation of chapter**

(a) An employer who violates any provision of this chapter [Part 2, Chapter 3.8] shall be subject to a civil penalty in the amount of one hundred dollars (\$100) for each violation.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a violation of this chapter has occurred, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for violations of this chapter shall be the same as those set forth in Section 1197.1

(c) Notwithstanding any other provision of this code, violations of this chapter shall not be misdemeanors under this code.

### **§ 1182.12 Minimum Wage effective January 1, 2007 and January 1, 2008 (New section effective 1/1/07)**

Notwithstanding any other provision of this part, on and after January 1, 2007, the minimum wage for all industries shall be not less than seven dollars and fifty cents (\$7.50) per hour, and on and after January 1, 2008, the minimum wage for all industries shall be not less than eight dollars (\$8.00) per hour.

### **§ 1182.13. Adjustment of permissible meals and lodging credits; Amendment and republishing of Wage Orders; Posting of Wage Order (New section effective 1/1/07)**

(a) The Department of Industrial Relations shall adjust upwards the permissible meals and lodging credits by the same percentage as the increase in the minimum wage made pursuant to Section 1182.12.

(b) The Department of Industrial Relations shall amend and republish the Industrial Welfare Commission's wage orders to be consistent with this section and Section 1182.12. The department shall make no other changes to the wage orders of the Industrial Welfare Commission that are in existence on the effective date of this section. The department shall meet the requirements set forth in Section 1183.

(c) Every employer that is subject to an amended republished order under this section shall post a copy of the order and keep it posted in a conspicuous location frequented by employees during the hours of the workday as required by Section 1183.

(d) Wage orders that are amended and republished as required under this section shall be final and conclusive for all purposes and dispositive of all pending petitions before the Industrial Welfare Commission as of the effective date of the act adding this section.

Any amendment and republication pursuant to this section shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and from the procedures set forth in Sections 1177, 1178.5, 1181, 1182, and 1182.1.

**§ 1191. Special license authorizing employment of handicapped employee; Special minimum wage for licensee; Renewal of license.**

For any occupation in which a minimum wage has been established, the commission may issue to an employee who is mentally or physically handicapped, or both, a special license authorizing the employment of the licensee for a period not to exceed one year from date of issue, at a wage less than the legal minimum wage. The commission shall fix a special minimum wage for the licensee. Such license may be renewed on a yearly basis.

**§ 1191.5. Special license to nonprofit organization to employ handicapped employees**

Notwithstanding the provisions of Section 1191, the commission may issue a special license to a nonprofit organization such as a sheltered workshop or rehabilitation facility to permit the employment of employees who have been determined by the commission to meet the requirements in Section 1191 without requiring individual licenses of such employees. The commission shall fix a special minimum wage for such employees. The special license for the nonprofit corporation shall be renewed on a yearly basis, or more frequently as determined by the commission.

**§ 1192. Apprentice or learner.**

For any occupation in which a minimum wage has been established, the commission may issue to an apprentice or learner a special license authorizing the employment of such apprentice or learner for the time and under the conditions which the commission determines and at a wage less than the legal minimum wage. The commission shall fix a special wage for such apprentice or learner.

**§ 1197. Requirement that minimum wage be paid**

The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

**§ 1197.1. Civil penalty for payment of wage less than legal minimum; Service of citation; Request for hearing; Entry of judgment**

(a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a person has paid or caused to be paid a wage less than the minimum, the Labor Commissioner may issue a citation to the

person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated. The Labor Commissioner promptly shall take all appropriate action, in accordance with this section, to enforce the citation and to recover the civil penalty assessed in connection with the citation.

(c) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, the person shall, within 15 business days after service of the citation, notify the office of the Labor Commissioner that appears on the citation of his or her request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed.

The decision of the Labor Commissioner shall consist of a notice of findings, findings, and an order, all of which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court. The party shall pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken within 45 days of service of the notice of findings, findings, and order thereon.

(d) A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(e) When no petition objecting to a citation or the proposed assessment of a civil penalty is filed, a certified copy of the citation or proposed civil penalty may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty.

(f) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty after hearing, a certified copy of these findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(g) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by the law on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him or her.

(h) The civil penalties provided for in this section are in addition to any other penalty provided by law.

(i) This section shall not apply to any order of the commission relating to household occupations.

## **§ 2802. Indemnification of employee for expenditures or losses in discharge of duties or obedience to directions**

(a) An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

(b) All awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.

(c) For purposes of this section, the term "necessary expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section.

#### **§ 2928. Wage Deductions for Tardiness.**

No deduction from the wages of an employee on account of his coming late to work shall be made in excess of the proportionate wage which would have been earned during the time actually lost, but for a loss of time less than thirty minutes, a half hour's wage may be deducted.

### **Workers' Compensation Insurance**

#### **§ 3700. Securing payment of compensation**

Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

#### **§ 3711. Statement by employer showing name of insurer or compliance with requirement to secure compensation**

The director, an investigator for the Department of Insurance Fraud Bureau or its successor, or a district attorney investigator assigned to investigate workers' compensation fraud may, at any time, require any employer to furnish a written statement showing the name of his or her insurer or the manner in which the employer has complied with the provisions of Section 3700. Failure of the employer for a period of 10 days to furnish the written statement is prima facie evidence that he or she has failed or neglected in respect to the matters so required. The 10-day period shall not be construed to allow an uninsured employer, so found by the director, any extension of time from the application of the provisions of Section 3710.1. An insured employer who fails to respond to an inquiry respecting his or her status as to his or her workers' compensation security shall be assessed and required to pay a penalty of five hundred dollars (\$500) to the director for deposit in the State Treasury to the credit of the Uninsured Employers Fund. In any prosecution under this article, the burden of proof is upon the defendant to show that he or she has secured the payment of compensation in one of the two ways set forth in Section 3700.

Please Post Next to Your IWC Industry or Occupation Order

## OFFICIAL NOTICE

# **California Minimum Wage MW-2007**

**Minimum Wage - Every employer shall pay to each employee wages not less than the following:**

# \$7.50

*per hour beginning January 1, 2007*

# \$8.00

*per hour beginning January 1, 2008*

To employers and representatives of persons working in industries and occupations in the State of California:

### **SUMMARY OF ACTIONS**

TAKE NOTICE that on September 12, 2006, the California Legislature enacted legislation signed by the Governor of California, raising the minimum wage for all industries. (AB 1835, Ch. 230, Stats of 2006, adding sections 1182.12 and 1182.13 to the California Labor Code.) Pursuant to its authority under Labor Code section 1182.13, the Department of Industrial Relations amends and republishes Sections 1, 2, 3, and 5 of the General Minimum Wage Order. MW-2001, Section 4, Separability, has not been changed. Consistent with this enactment, amendments are made to the minimum wage, and the meals and lodging credits sections of all of the IWC's industry and occupation orders.

This summary must be made available to employees in accordance with the IWC's wage orders. Copies of the full text of the amended wage orders may be obtained by ordering on-line at [www.dir.ca.gov/WP.asp](http://www.dir.ca.gov/WP.asp), or by contacting your local Division of Labor Standards Enforcement office.

### **1. APPLICABILITY**

The provisions of this Order shall not apply to outside salespersons and individuals who are the parent, spouse, or children of the employer previously contained in this Order and the IWC's industry and occupation orders. Exceptions and modifications provided by statute or in Section 1, Applicability, and in other sections of the IWC's industry and occupation orders may be used where any such provisions are enforceable and applicable to the employer.

### **2. MINIMUM WAGES**

Every employer shall pay to each employee wages not less than seven dollars and fifty cents (\$7.50) per hour for all hours worked, effective January 1, 2007, and not less than eight dollars (\$8.00) per hour for all hours worked, effective January 1, 2008.

### **3. MEALS AND LODGING**

Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the following:

	<b>Effective January 1, 2007</b>	<b>Effective January 1, 2008</b>
<b>LODGING</b>		
Room occupied alone .....	\$35.27 per week	\$37.63 per week
Room shared .....	\$29.11 per week	\$31.06 per week
Apartment – two-thirds (2/3) of the ordinary rental value, and in no event more than:.....	\$423.51 per month	\$451.89 per month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than: .....	\$626.49 per month	\$668.46 per month

**MEALS**

Breakfast .....	\$2.72	\$2.90
Lunch .....	\$3.72	\$3.97
Dinner .....	\$5.00	\$5.34

**4. SEPARABILITY**

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Order should be held invalid, unconstitutional, unauthorized, or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

**5. AMENDED PROVISIONS**

This Order amends the minimum wage and meals and lodging credits in MW-2001, as well as in the IWC's industry and occupation orders. (See Orders 1-15, Secs. 4 and 10; and Order 16, Secs. 4 and 9.) This Order makes no other changes to the IWC's industry and occupation orders.

**These Amendments to the Wage Orders shall be in effect as of January 1, 2007.**

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Questions about enforcement should be directed to the Division of Labor Standards Enforcement. Consult the white pages of your telephone directory under CALIFORNIA, State of, Industrial Relations for the address and telephone number of the office nearest you. The Division has offices in the following cities: Bakersfield, El Centro, Eureka, Fresno, Long Beach, Los Angeles, Oakland, Redding, Sacramento, Salinas, San Bernardino, San Diego, San Francisco, San Jose, Santa Ana, Santa Barbara, Santa Rosa, Stockton, and Van Nuys.



## OFFICE LOCATIONS

Please note: The numbers listed in **bold** below are pre-recorded information lines. If the information you need is not provided in the pre-recorded message, please call the general office number listed below in black.

### **BAKERSFIELD**

Division of Labor Standards Enforcement  
5555 California Ave., Suite 200  
Bakersfield, CA 93309  
661-395-2710  
**661-859-2462**

### **EUREKA**

Division of Labor Standards Enforcement  
619 Second Street, Room 109  
Eureka, CA 95501  
707-445-6613  
**707-441-4604**

### **FRESNO**

Division of Labor Standards Enforcement  
770 E. Shaw Ave., Suite 315  
Fresno, CA 93710  
559-244-5340  
**559-248-8398**

### **LONG BEACH**

Division of Labor Standards Enforcement  
300 Oceangate, 3<sup>rd</sup> Floor  
Long Beach, CA 90802  
562-590-5048  
**562-491-0160**

### **LOS ANGELES**

Division of Labor Standards Enforcement  
320 W. Fourth St, Suite 450  
Los Angeles, CA 90013  
213-620-6330  
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